

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

THE STATE OF TEXAS, et al.,

Plaintiffs,

v.

GOOGLE LLC,

Defendant.

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Civil Action No. 4:20-cv-957-SDJ

**JOINT REPORT REGARDING
CHANGES TO DISCOVERY LIMITATIONS**

Pursuant to the Court's direction at the Rule 16 conference, the Parties submit this report regarding their agreement on changes to the discovery limitations imposed by the Federal Rules of Civil Procedure. The Parties have negotiated in good faith and were able to resolve certain issues that had been described as disputed in Section 7(iv) of the April 27, 2021 Joint Report of Attorney Conference. Dkt. 108. Having reached agreement on these issues, the parties respectfully ask the Court to include in its Case Management Order the agreed changes to the limitations on discovery set forth in the Joint Report of Attorney Conference, as well as the following agreed changes:

Exceptions to Limit on Depositions. The following depositions do not count against the deposition caps imposed by the preceding sentence: (a) depositions of the Parties' designated expert witnesses; (b) depositions previously taken in response to Civil Investigative Demands; (c) cross-examination of a witness by the non-noticing side in a non-Party deposition noticed by only one side; (d) depositions of individuals who are identified on a Party's witness list and have not previously been deposed in this case; and (e) depositions taken for the sole purpose of establishing the location, authenticity, or admissibility of documents produced by any Party or non-Party, provided that such depositions may be noticed only after the Party taking the deposition has taken reasonable steps to establish location, authenticity, or admissibility through other means, and

further provided that such depositions must be designated at the time that they are noticed as being taken for the sole purpose of establishing the location, authenticity, or admissibility of documents.

Extended-Time Depositions of Party Fact Witnesses. All Party fact witness depositions are limited to 7 hours, except that each side may give the other Party notice of depositions it proposes to extend up to 14 hours based on good cause as to a specific person, and the Parties will confer in good faith about the extension. This exception will not apply to executive-level employees of Google, the depositions of which shall be limited to 7 hours. If the Parties are unable to agree after negotiating in good faith, the Parties reserve the right to seek the Court's intervention.

Depositions of Non-Party Fact Witnesses Noticed by One Side. Depositions of non-Party fact witnesses noticed by only one side are limited to 7 hours total. During such a deposition, the non-noticing side may examine the witness for up to 1 hour after direct examination. The noticing side then will be entitled to conduct redirect examination of the witness for up to 1 hour.

Requests for Production. The Parties were not able to reach agreement concerning requests for production, but will continue to confer and will inform the Court promptly if they are not able to reach agreement.

Dated: May 7, 2021

Respectfully submitted,

/s/ R. Paul Yetter

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